THE HON'BLE SRI JUSTICE C.V. RAMULU

9th June, 2006

W.P.No.28195 of 2005

Between :

I. Sivaiah & 4 others … Petitioners

and

The District Collector, Nellore & 6 others … Respondents

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.28195 of 2005

ORAL ORDER:

This Writ Petition is filed seeking a Mandamus to declare the action of respondents 1 to 5 in not disposing of the representation filed by the petitioner on 13-5-2005 and the construction made by respondents 6 and 7 over canal poramboke comprised in Sy.No.42 of Juvvalapalem village as arbitrary and illegal.

It is the case of the petitioners that the 1st petitioner is the Vice-President and the 2nd petitioner is the Member of the Managing Committee of Puduru Big Tank Water Users Association. All the petitioners are the ayacutdars of Puduru Tank and the Distributory Channel of Swarnamukhi river called 'Puduru supply channel'. It is their complaint that the Sarpanch of Juvvalapalem village started making construction of Panchayat Office building by encroaching the canal land, which is classified as 'canal poramboke' comprised in Sy.No.42 of Juvvalapalem village. Therefore, they approached the 7th respondent and requested him not to allow any constructions on the canal bed, as it obstructs the free flow of water to Puduru Tank. Since the construction of the Gram Panchayat building was not stopped, they filed a representation before the 2nd respondent on 13-5-2005 brining all the facts to his notice. Respondent No.2, in turn, vide his letter dated 13-6-2005 sent a copy of the representation to the 3rd

respondent for suitable action directing him to inspect the canal and submit a report. But, the 3rd respondent transmitted the same to the 5th respondent vide his letter dated 16-6-2005 requesting him to get the said site surveyed by the Mandal Surveyor and to stop the construction of the building, if it is really encroaching the Government canal poramboke belonging to the Irrigation Department. However, respondents 1 to 5 did not initiate any action against the 7th respondent and never tried to stop the construction for the reasons best known to them. Hence, this Writ Petition.

Learned Government Pleader, on instructions having received from the 5th respondent, states that the Gram Panchayat building has been constructed in Sy.No.41-1, which is classified as 'village site poramboke' and which is vested with Gram Panchayat and as the Gram Panchayat site of 4 Ankanams is not sufficient, it has encroached an extent of 2.72 Ankanams in Sy.No.42-1, which is having an extent of Ac.1.00 and because of this encroachment, no obstruction has been caused for the flow of water. Puduru Tank has received abundant water and entire Ayacut has received sufficient water supply for paddy crop. Still there is water in Puduru Tank, which is sufficient for two months. The construction of Gram Panchayat building in a small extent of 2.72 Ankanams of Channel Poramboke has not obstructed free flow of water and no water stagnated in October or November,2005.

From the above, it is clear that there is an encroachment of 2.72 Ankanams in Sy.No.42-1, which is admittedly a canal poramboke. But, the instructions received by the learned Government Pleader from the 5th respondent do not indicate that any survey has been conducted in this regard.

In view of the above, without going into the merits of the case, the

5th respondent is directed to conduct a fresh survey of the entire land in the presence of the petitioners as well as the unofficial respondent and decide the matter afresh as to what is the encroachment of the canal poramboke land in Sy.No.42-1 and whether it obstructs the free flow of water from Swarnamukhi river to Puduru Tank and pass appropriate orders on the said representation, within a period of three months from the date of receipt of a copy of this order.

With the above direction, the Writ Petition is disposed of. No order as to costs.

09-6-2006

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